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## *SENATE BILL NO. 3083*

Originated in Senate

Jessie W. Gwynne

Secretary

SENATE BILL NO. 3083

AN ACT TO AMEND SECTIONS 25-11-103, 25-11-114, 25-11-115, 25-11-120, 25-11-121 AND 25-11-127, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "AVERAGE COMPENSATION" UNDER THE PUBLIC EMPLOYEES' RETIREMENT LAW TO LIMIT TO 30 DAYS THE AMOUNT OF PAID LEAVE THAT IS USED IN THE CALCULATION OF AVERAGE COMPENSATION UPON THE DEATH OF A MEMBER; TO PROVIDE THAT BENEFITS FOR CERTAIN SURVIVING SPOUSES UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM SHALL BE THE HIGHER OF 20% OF AVERAGE COMPENSATION OR THE AMOUNT RECEIVED UNDER OPTION 2; TO ADJUST THE BENEFIT OF CERTAIN SURVIVING SPOUSES OF DECEASED MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO SELECTED A REDUCED BENEFIT BECAUSE OF A FORMER REMARRIAGE PENALTY; TO AUTHORIZE CERTAIN SPOUSES OF DECEASED MEMBERS WHO ARE ENTITLED TO RECEIVE A BENEFIT AND WHO ARE ALSO THE NAMED BENEFICIARY FOR REFUNDS OF ACCUMULATED CONTRIBUTIONS TO ELECT TO RECEIVE A REFUND IN LIEU OF A MONTHLY ALLOWANCE; TO CLARIFY OPTION 4-B UNDER SUCH SYSTEM; TO PROVIDE THAT INTEREST SHALL NOT BE PAID ON ANY RETIREMENT BENEFITS; TO EXPAND THE RATING AGENCIES THAT MAY RATE CORPORATE AND TAXABLE MUNICIPAL BONDS IN WHICH THE FUNDS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY BE INVESTED TO INCLUDE ANY SECURITY AND EXCHANGE COMMISSION DESIGNATED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION; TO REVISE THE MANNER IN WHICH THE REGULAR INTEREST THAT IS ANNUALLY CREDITED TO THE ACCOUNT OF A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM IS DETERMINED; TO PROVIDE THAT MEMBERS OF THE SYSTEM WHO RETIRE AND CONTINUE IN MUNICIPAL OR COUNTY ELECTED OFFICE MAY DO SO ONLY IF THEIR CONTINUED SERVICE WILL NOT RESULT IN A PROHIBITED IN-SERVICE DISTRIBUTION AS DEFINED BY THE INTERNAL REVENUE SERVICE; TO REQUIRE THE MUNICIPALITY OR COUNTY IN WHICH SUCH A RETIRED PERSON HOLDS OFFICE TO PAY TO THE RETIREMENT SYSTEM THE AMOUNT OF THE EMPLOYER'S CONTRIBUTIONS ON THE FULL AMOUNT OF THE REGULAR COMPENSATION FOR THE ELECTIVE OFFICE THAT SUCH RETIRED PERSON HOLDS; TO AMEND SECTION 25-11-309, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER OR BENEFICIARY OF THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN MAY WAIVE ALL OR ANY PORTION OF THE BENEFITS TO WHICH HE IS ENTITLED UNDER SUCH PLAN; TO AMEND SECTIONS 23-13-3, 23-13-11, 25-13-16 AND 25-13-28, MISSISSIPPI CODE OF 1972, TO REMOVE LANGUAGE THAT REQUIRES A REFUND TO A MEMBER OF THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM WHO IS NOT VESTED IN SUCH SYSTEM AND WHO BECOMES A MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF ANY FUNDS CREDITED TO SUCH PERSON IN THE HIGHWAY SAFETY PATROL SYSTEM ABOVE THE AMOUNT REQUIRED TO MAKE HIM FULLY AND CURRENTLY CREDITED IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO PROVIDE THAT A MEMBER OR BENEFICIARY OF THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM MAY WAIVE ALL OR ANY PORTION OF THE BENEFITS TO WHICH HE IS ENTITLED UNDER SUCH SYSTEM; TO CLARIFY OPTION 4-B UNDER SUCH SYSTEM; TO



REVISE THE MANNER IN WHICH THE REGULAR INTEREST THAT IS ANNUALLY CREDITED TO THE ACCOUNT OF A MEMBER OF THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM IS DETERMINED; TO AMEND SECTION 25-11-415, MISSISSIPPI CODE OF 1972, TO MODIFY THE AMOUNT OF THE ADMINISTRATIVE FEE THAT THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY ASSESS FOR THE ADMINISTRATION OF THE OPTIONAL RETIREMENT PLAN FOR EMPLOYEES OF THE STATE INSTITUTIONS OF HIGHER LEARNING; TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION 21-29-331, MISSISSIPPI CODE OF 1972, TO PROVIDE THE PERSONS TO WHOM MUNICIPAL RETIREMENT SYSTEM BENEFITS ARE PAYABLE IN THE EVENT OF A DEATH OF A DESIGNATED BENEFICIARY; TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION 21-29-333, MISSISSIPPI CODE OF 1972; TO PROVIDE THAT A MEMBER OR BENEFICIARY OF A MUNICIPAL RETIREMENT SYSTEM MAY WAIVE ALL OR ANY PORTION OF THE BENEFITS TO WHICH HE IS ENTITLED UNDER SUCH SYSTEM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 25-11-103, Mississippi Code of 1972, is amended as follows:

25-11-103. The following words and phrases as used in Articles 1 and 3, unless a different meaning is plainly required by the context, have the following meanings:

(a) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member and credited to his or her individual account in the annuity savings account, together with regular interest as provided in Section 25-11-123.

(b) "Actuarial cost" means the amount of funds presently required to provide future benefits as determined by the board based on applicable tables and formulas provided by the actuary.

(c) "Actuarial equivalent" means a benefit of equal value to the accumulated contributions, annuity or benefit, as the case may be, when computed upon the basis of such mortality tables as adopted by the board of trustees, and regular interest.

(d) "Actuarial tables" means such tables of mortality and rates of interest as adopted by the board in accordance with the recommendation of the actuary.

(e) "Agency" means any governmental body employing persons in the state service.

(f) "Average compensation" means the average of the four (4) highest years of earned compensation reported for an employee in a fiscal or calendar year period, or combination thereof that do not overlap, or the last forty-eight (48) consecutive months of earned compensation reported for an employee. The four (4) years need not be successive or joined years of service. In computing the average compensation for retirement, disability or survivor benefits, any amount lawfully paid in a lump sum for personal leave or major medical leave shall be included in the calculation to the extent that the amount does not exceed an amount that is equal to thirty (30) days of earned compensation and to the extent that it does not cause the employee's earned compensation to exceed the maximum reportable amount specified in Section 25-11-103(k); however, this thirty-day limitation shall not prevent the inclusion in the calculation of leave earned under federal regulations before July 1, 1976, and frozen as of that date as referred to in Section 25-3-99. \* \* \*

In computing the average compensation, no amounts shall be used that are in excess of the amount on which contributions were required and paid, and no nontaxable amounts paid by the employer for health or life insurance premiums for the employee shall be used. If any member who is or has been granted any increase in annual salary or compensation of more than eight percent (8%) retires within twenty-four (24) months from the date that the increase becomes effective, then the board shall exclude that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in the calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of



an actual change in the position held or services rendered, or that the compensation increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer furnishes an affidavit stating that the increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

(g) "Beneficiary" means any person entitled to receive a retirement allowance, an annuity or other benefit as provided by Articles 1 and 3. The term "beneficiary" may also include an organization, estate, trust or entity; however, a beneficiary designated or entitled to receive monthly payments under an optional settlement based on life contingency or under a statutory monthly benefit may only be a natural person. In the event of the death before retirement of any member who became a member of the system before July 1, 2007, and whose spouse and/or children are not entitled to a retirement allowance on the basis that the member has less than four (4) years of service credit, or who became a member of the system on or after July 1, 2007, and whose spouse and/or children are not entitled to a retirement allowance on the basis that the member has less than eight (8) years of service credit, and/or has not been married for a minimum of one (1) year or the spouse has waived his or her entitlement to a retirement allowance under Section 25-11-114, the lawful spouse of a member at the time of the death of the member shall be the beneficiary of the member unless the member has designated another beneficiary after the date of marriage in writing, and filed that writing in the office of the executive director of the board of

trustees. No designation or change of beneficiary shall be made in any other manner.

(h) "Board" means the board of trustees provided in Section 25-11-15 to administer the retirement system created under this article.

(i) "Creditable service" means "prior service," "retroactive service" and all lawfully credited unused leave not exceeding the accrual rates and limitations provided in Section 25-3-91 et seq., as of the date of withdrawal from service plus "membership service" and other service for which credit is allowable as provided in Section 25-11-109. Except to limit creditable service reported to the system for the purpose of computing an employee's retirement allowance or annuity or benefits provided in this article, nothing in this paragraph shall limit or otherwise restrict the power of the governing authority of a municipality or other political subdivision of the state to adopt such vacation and sick leave policies as it deems necessary.

(j) "Child" means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at the time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board.

(k) "Earned compensation" means the full amount earned during a fiscal year by an employee including any maintenance furnished not to exceed the employee compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code for the calendar year in which the fiscal year begins and proportionately for less than one (1) year of service. The value of that maintenance when not paid in money shall be fixed by the employing state agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15. Earned compensation shall not include any nontaxable amounts paid by the employer for



health or life insurance premiums for an employee. In any case, earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, and other similar extraordinary nonrecurring payments. In addition, any member in a covered position, as defined by Public Employees' Retirement System laws and regulations, who is also employed by another covered agency or political subdivision shall have the earnings of that additional employment reported to the Public Employees' Retirement System regardless of whether the additional employment is sufficient in itself to be a covered position. In addition, computation of earned compensation shall be governed by the following:

(i) In the case of constables, the net earnings from their office after deduction of expenses shall apply, except that in no case shall earned compensation be less than the total direct payments made by the state or governmental subdivisions to the official.

(ii) In the case of chancery or circuit clerks, the net earnings from their office after deduction of expenses shall apply as expressed in Section 25-11-123(f)(4).

(iii) In the case of members of the State Legislature, all remuneration or amounts paid, except mileage allowance, shall apply.

(iv) The amount by which an eligible employee's salary is reduced under a salary reduction agreement authorized under Section 25-17-5 shall be included as earned compensation under this paragraph, provided this inclusion does not conflict with federal law, including federal regulations and federal administrative interpretations under the federal law, pertaining to the Federal Insurance Contributions Act or to Internal Revenue Code Section 125 cafeteria plans.

(v) Compensation in addition to an employee's base salary that is paid to the employee under the vacation and sick

leave policies of a municipality or other political subdivision of the state that employs him or her that exceeds the maximums authorized by Section 25-3-91 et seq. shall be excluded from the calculation of earned compensation under this article.

(vi) The maximum salary applicable for retirement purposes before July 1, 1992, shall be the salary of the Governor.

(vii) Nothing in Section 25-3-31 shall affect the determination of the earned compensation of any member for the purposes of this article.

(l) "Employee" means any person legally occupying a position in the state service, and shall include the employees of the retirement system created under this article.

(m) "Employer" means the State of Mississippi or any of its departments, agencies or subdivisions from which any employee receives his or her compensation.

(n) "Executive director" means the secretary to the board of trustees, as provided in Section 25-11-15(9), and the administrator of the Public Employees' Retirement System and all systems under the management of the board of trustees. Wherever the term "Executive Secretary of the Public Employees' Retirement System" or "executive secretary" appears in this article or in any other provision of law, it shall be construed to mean the Executive Director of the Public Employees' Retirement System.

(o) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

(p) "Medical board" means the board of physicians or any governmental or nongovernmental disability determination service designated by the board of trustees that is qualified to make disability determinations as provided for in Section 25-11-119.

(q) "Member" means any person included in the membership of the system as provided in Section 25-11-105. For purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,



25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the system withdrew from state service and received a refund of the amount of the accumulated contributions to the credit of the member in the annuity savings account before July 1, 2007, and the person reenters state service and becomes a member of the system again on or after July 1, 2007, and repays all or part of the amount received as a refund and interest in order to receive creditable service for service rendered before July 1, 2007, the member shall be considered to have become a member of the system on or after July 1, 2007, subject to the eight-year membership service requirement, as applicable in those sections.

(r) "Membership service" means service as an employee in a covered position rendered while a contributing member of the retirement system.

(s) "Position" means any office or any employment in the state service, or two (2) or more of them, the duties of which call for services to be rendered by one (1) person, including positions jointly employed by federal and state agencies administering federal and state funds. The employer shall determine upon initial employment and during the course of employment of an employee who does not meet the criteria for coverage in the Public Employees' Retirement System based on the position held, whether the employee is or becomes eligible for coverage in the Public Employees' Retirement System based upon any other employment in a covered agency or political subdivision. If or when the employee meets the eligibility criteria for coverage in the other position, then the employer must withhold contributions and report wages from the noncovered position in accordance with the provisions for reporting of earned compensation. Failure to deduct and report those contributions shall not relieve the employee or employer of liability thereof. The board shall adopt such rules and regulations as necessary to implement and enforce this provision.

(t) "Prior service" means:

(i) For persons who became members of the system before July 1, 2007, service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of four (4) years.

(ii) For persons who became members of the system on or after July 1, 2007, service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of eight (8) years.

(u) "Regular interest" means interest compounded annually at such a rate as determined by the board in accordance with Section 25-11-121.

(v) "Retirement allowance" means an annuity for life as provided in this article, payable each year in twelve (12) equal monthly installments beginning as of the date fixed by the board. The retirement allowance shall be calculated in accordance with Section 25-11-111. However, any spouse who received a spouse retirement benefit in accordance with Section 25-11-111(d) before March 31, 1971, and those benefits were terminated because of eligibility for a social security benefit, may again receive his or her spouse retirement benefit from and after making application with the board of trustees to reinstate the spouse retirement benefit.

(w) "Retroactive service" means service rendered after February 1, 1953, for which credit is allowable under Section 25-11-105(b) and Section 25-11-105(k).



(x) "System" means the Public Employees' Retirement System of Mississippi established and described in Section 25-11-101.

(y) "State" means the State of Mississippi or any political subdivision thereof or instrumentality of the state.

(z) "State service" means all offices and positions of trust or employment in the employ of the state, or any political subdivision or instrumentality of the state, that elect to participate as provided by Section 25-11-105(f), including the position of elected or fee officials of the counties and their deputies and employees performing public services or any department, independent agency, board or commission thereof, and also includes all offices and positions of trust or employment in the employ of joint state and federal agencies administering state and federal funds and service rendered by employees of the public schools. Effective July 1, 1973, all nonprofessional public school employees, such as bus drivers, janitors, maids, maintenance workers and cafeteria employees, shall have the option to become members in accordance with Section 25-11-105(b), and shall be eligible to receive credit for services before July 1, 1973, provided that the contributions and interest are paid by the employee in accordance with that section; in addition, the county or municipal separate school district may pay the employer contribution and pro rata share of interest of the retroactive service from available funds. From and after July 1, 1998, retroactive service credit shall be purchased at the actuarial cost in accordance with Section 25-11-105(b).

(aa) "Withdrawal from service" or "termination from service" means complete severance of employment in the state service of any member by resignation, dismissal or discharge.

(bb) The masculine pronoun, wherever used, includes the feminine pronoun.

**SECTION 2.** Section 25-11-114, Mississippi Code of 1972, is amended as follows:

25-11-114. (1) The applicable benefits provided in subsections (2) and (3) of this section shall be paid to eligible beneficiaries of any member who became a member of the system before July 1, 2007, and has completed four (4) or more years of membership service, or who became a member of the system on or after July 1, 2007, and has completed eight (8) or more years of membership service, and who dies before retirement and who has not filed a Pre-Retirement Optional Retirement Form as provided in Section 25-11-111.

(2) (a) The \* \* \* surviving spouse of a member who \* \* \* dies before retirement shall receive a monthly benefit computed in accordance with paragraph (d) of this subsection (2) as if the member \* \* \* had nominated his spouse as beneficiary \* \* \* if:

(i) The member completed the requisite minimum number of years of membership service to qualify for a retirement allowance at age sixty (60);

(ii) The spouse has been married to the member for not less than one (1) year preceding the death of the member;

(iii) The member has not exercised any other option.

(b) If, at the time of the member's death, there are no dependent children, and the surviving spouse, who otherwise would receive the annuity under this subsection (2), has filed with the system a signed written waiver of his or her rights to the annuity and that waiver was in effect at the time of the member's death, a lump-sum distribution of the deceased member's accumulated contributions shall be refunded in accordance with Section 25-11-117.

(c) The spouse annuity shall begin on the first day of the month following the date of the member's death, but in case of



late filing, retroactive payments will be made for a period of not more than one (1) year.

(d) The spouse of a member who is eligible to receive a monthly benefit under paragraph (a) of this subsection (2) shall receive a benefit for life equal to the higher of the following:

(i) The greater of twenty percent (20%) of the deceased member's average compensation as defined in Section 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;  
or \* \* \*

(ii) Benefits calculated under Option 2 of Section 25-11-115. \* \* \* The method of calculating the retirement benefits shall be on the same basis as provided in Section 25-11-111(d). However, if the member dies before being qualified for a retirement allowance, then the benefits shall be reduced by three percent (3%) per year for the lesser of either the years of service or age required to qualify for a retirement allowance in Section 25-11-111(d).

(e) The surviving spouse of a deceased member who previously received spouse retirement benefits under \* \* \* paragraph (d)(i) of this section from and after July 1, 1992, and whose benefits were terminated before July 1, 2004, because of remarriage, may again receive the retirement benefits authorized under \* \* \* paragraph (d)(i) of this section by making application with the board to reinstate those benefits. Any reinstatement of the benefits shall be prospective only and shall begin after the first of the month following the date of the application for reinstatement, but no earlier than July 1, 2004. From and after July 1, 2010, any spouse who chose Option 2 from and after July 1, 1992, but before July 1, 2004, where the benefit, although payable for life, was less than the benefit available under the calculation in (d)(i) of this subsection shall have his or her benefit increased to the amount which provides the greater benefit.

\* \* \*

(3) (a) Subject to the maximum limitation provided in this paragraph, the member's dependent children each shall receive an annuity of the greater of ten percent (10%) of the member's average compensation as defined in Section 25-11-103 at the time of the death of the member or Fifty Dollars (\$50.00) monthly; however, if there are more than three (3) dependent children, each dependent child shall receive an equal share of a total annuity equal to thirty percent (30%) of the member's average compensation, provided that the total annuity shall not be less than One Hundred Fifty Dollars (\$150.00) per month for all children.

(b) A child shall be considered to be a dependent child until marriage, or the attainment of age nineteen (19), whichever comes first; however, this age limitation shall be extended beyond age nineteen (19), but in no event beyond the attainment of age twenty-three (23), as long as the child is a student regularly pursuing a full-time course of resident study or training in an accredited high school, trade school, technical or vocational institute, junior or community college, college, university or comparable recognized educational institution duly licensed by a state. A student child whose birthday falls during the school year (September 1 through June 30) is considered not to reach age twenty-three (23) until the July 1 following the actual twenty-third birthday. A full-time course of resident study or training means a day or evening noncorrespondence course that includes school attendance at the rate of at least thirty-six (36) weeks per academic year or other applicable period with a subject load sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned. Any child who is physically or mentally incompetent, as adjudged by either a



Mississippi court of competent jurisdiction or by the board, shall receive benefits for as long as the incompetency exists.

(c) If there are more than three (3) dependent children, upon a child's ceasing to be a dependent child, his annuity shall terminate and there shall be a redetermination of the amounts payable to any remaining dependent children.

(d) Annuities payable under this subsection (3) shall begin the first day of the month following the date of the member's death or in case of late filing, retroactive payments will be made for a period of not more than one (1) year. Those benefits may be paid to a surviving parent or the lawful custodian of a dependent child for the use and benefit of the child without the necessity of appointment as guardian.

(4) (a) Death benefits in the line of duty. Regardless of the number of years of the member's creditable service, the spouse and/or the dependent children of an active member who is killed in the line of performance of duty or dies as a direct result of an accident occurring in the line of performance of duty shall qualify, on approval of the board, for a retirement allowance on the first of the month following the date of death, but in the case of late filing, retroactive payments will be made for a period of not more than one (1) year. The spouse shall receive a retirement allowance for life equal to one-half (1/2) of the average compensation as defined in Section 25-11-103. In addition to the retirement allowance for the spouse, or if there is no surviving spouse, the member's dependent child shall receive a retirement allowance in the amount of one-fourth (1/4) of the member's average compensation as defined in Section 25-11-103; however, if there are two (2) or more dependent children, each dependent child shall receive an equal share of a total annuity equal to one-half (1/2) of the member's average compensation. If there are more than two (2) dependent children, upon a child's ceasing to be a dependent child, his annuity shall terminate and

there shall be a redetermination of the amounts payable to any remaining dependent children. Those benefits shall cease to be paid for the support and maintenance of each child upon the child attaining the age of nineteen (19) years; however, the spouse shall continue to be eligible for the aforesaid retirement allowance. Those benefits may be paid to a surviving parent or lawful custodian of the children for the use and benefit of the children without the necessity of appointment as guardian. Any spouse who received spouse retirement benefits under this paragraph (a) from and after April 4, 1984, and whose benefits were terminated before July 1, 2004, because of remarriage, may again receive the retirement benefits authorized under this paragraph (a) by making application with the board to reinstate those benefits. Any reinstatement of the benefits shall be prospective only and shall begin after the first of the month following the date of the application for reinstatement, but not earlier than July 1, 2004.

(b) A child shall be considered to be a dependent child until marriage, or the attainment of age nineteen (19), whichever comes first; however, this age limitation shall be extended beyond age nineteen (19), but in no event beyond the attainment of age twenty-three (23), as long as the child is a student regularly pursuing a full-time course of resident study or training in an accredited high school, trade school, technical or vocational institute, junior or community college, college, university or comparable recognized educational institution duly licensed by a state. A student child whose birthday falls during the school year (September 1 through June 30) is considered not to reach age twenty-three (23) until the July 1 following the actual twenty-third birthday. A full-time course of resident study or training means a day or evening noncorrespondence course that includes school attendance at the rate of at least thirty-six (36) weeks per academic year or other applicable period with a subject



load sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned. Any child who is physically or mentally incompetent, as adjudged by either a Mississippi court of competent jurisdiction or by the board, shall receive benefits for as long as the incompetency exists.

(5) If all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to the member's accumulated contributions standing to the member's credit in the annuity savings account at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to the person that the member has nominated by written designation duly executed and filed with the board. If there is no designated beneficiary surviving at termination of benefits, the difference shall be payable under Section 25-11-117.1(1).

(6) Regardless of the number of years of creditable service, upon the application of a member or employer, any active member who becomes disabled as a direct result of an accident or traumatic event resulting in a physical injury occurring in the line of performance of duty, provided that the medical board or other designated governmental agency after a medical examination certifies that the member is mentally or physically incapacitated for the further performance of duty and the incapacity is likely to be permanent, may be retired by the board of trustees on the first of the month following the date of filing the application but in no event shall the retirement allowance begin before the termination of state service. The retirement allowance shall equal the allowance on disability retirement as provided in Section 25-11-113 but shall not be less than fifty percent (50%) of average compensation.

Permanent and total disability resulting from a cardiovascular, pulmonary or musculo-skeletal condition that was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability. A mental disability based exclusively on employment duties occurring on an ongoing basis shall be deemed an ordinary disability.

(7) If the deceased or disabled member has less than four (4) years of membership service, the average compensation as defined in Section 25-11-103 shall be the average of all annual earned compensation in state service for the purposes of benefits provided in this section.

(8) In case of death or total and permanent disability under subsection (4) or subsection (6) of this section and before the board shall consider any application for a retirement allowance, the employer must certify to the board that the member's death or disability was a direct result of an accident or a traumatic event occurring during and as a result of the performance of the regular and assigned duties of the employee and that the death or disability was not the result of the willful negligence of the employee.

(9) The application for the retirement allowance must be filed within one (1) year after death of an active member who is killed in the line of performance of duty or dies as a direct result of an accident occurring in the line of performance of duty or traumatic event; but the board of trustees may consider an application for disability filed after the one-year period if it can be factually demonstrated to the satisfaction of the board of trustees that the disability is due to the accident and that the filing was not accomplished within the one-year period due to a delayed manifestation of the disability or to circumstances beyond the control of the member. However, in case of late filing, retroactive payments will be made for a period of not more than one (1) year only.



(10) (a) Notwithstanding any other section of this article and in lieu of any payments to a designated beneficiary for a refund of contributions under Section 25-11-117, the spouse and/or children shall be eligible for the benefits payable under this section, and the spouse may elect, for both the spouse and/or children, to receive benefits in accordance with either subsections (2) and (3) or subsection (4) of this section; otherwise, the contributions to the credit of the deceased member shall be refunded in accordance with Section 25-11-117.

(b) Notwithstanding any other section of this article, a spouse who is entitled to receive a monthly benefit under either subsection (2) or (4) of this section and who is also the named beneficiary for a refund of accumulated contributions in the member's annuity savings account, may, after the death of the member, elect to receive a refund of accumulated contributions in lieu of a monthly allowance, provided that there are no dependent children entitled to benefits under subsection (3) of this section.

(11) If the member has previously received benefits from the system to which he was not entitled and has not repaid in full all amounts payable by him to the system, the annuity amounts otherwise provided by this section shall be withheld and used to effect repayment until the total of the withholdings repays in full all amounts payable by him to the system.

**SECTION 3.** Section 25-11-115, Mississippi Code of 1972, is amended as follows:

25-11-115. (1) Upon application for superannuation or disability retirement, any member may elect to receive his or her benefit in a retirement allowance payable throughout life with no further payments to anyone at the member's death, except that if the member's total retirement payments under this article do not equal the member's total contributions under this article, the named beneficiary shall receive the difference in cash at the

member's death. Or the member may elect upon retirement, or upon becoming eligible for retirement, to receive the actuarial equivalent subject to the provisions of subsection (3) of this section of his or her retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

**Option 1.** If the retired member dies before he or she has received in annuity payment the value of the member's annuity savings account as it was at the time of the member's retirement, the balance shall be paid to the legal representative or to such person as the member has nominated by written designation duly acknowledged and filed with the board;

**Option 2.** Upon the retired member's death, his or her reduced retirement allowance shall be continued throughout the life of, and paid to, such person as the member has nominated by written designation duly acknowledged and filed with the board of trustees at the time of his or her retirement;

**Option 3.** Upon the retired member's death, one-half (1/2) of his or her reduced retirement allowance shall be continued throughout the life of, and paid to, such person as the member has nominated by written designation duly acknowledged and filed with the board of trustees at the time of his or her retirement, and the other one-half (1/2) of his or her reduced retirement allowance to some other designated beneficiary;

**Option 4-A.** Upon the retired member's death, one-half (1/2) of his or her reduced retirement allowance, or such other specified amount, shall be continued throughout the life of, and paid to, such person as the member has nominated by written designation duly acknowledged and filed with the board of trustees at the time of his or her retirement;

**Option 4-B.** A reduced retirement allowance shall be continued throughout the life of the retirant, but with the further guarantee of payments to the named beneficiary or beneficiaries \* \* \* for a specified number of years certain. If



the retired member or the last designated beneficiary \* \* \* both die before receiving all guaranteed payments due, the actuarial equivalent of the remaining payments shall be paid under Section 25-11-117.1(1);

**Option 6.** Any member who became a member of the system before July 1, 2007, and who has at least twenty-eight (28) years of creditable service at the time of retirement or who is at least sixty-three (63) years of age and eligible to retire, may select the maximum retirement benefit or an optional benefit as provided in this subsection together with a partial lump-sum distribution. Any member who became a member of the system on or after July 1, 2007, and who has at least twenty-eight (28) years of creditable service at the time of retirement may select the maximum retirement benefit or any optional benefit as provided in this subsection together with a partial lump-sum distribution. The amount of the lump-sum distribution under this option shall be equal to the maximum monthly benefit multiplied by twelve (12), twenty-four (24) or thirty-six (36) as selected by the member. The maximum retirement benefit shall be actuarially reduced to reflect the amount of the lump-sum distribution selected and further reduced for any other optional benefit selected. The annuity and lump-sum distribution shall be computed to result in no actuarial loss to the system. The lump-sum distribution shall be made as a single payment payable at the time the first monthly annuity payment is paid to the retiree. The amount of the lump-sum distribution shall be deducted from the member's annuity savings account in computing what contributions remain at the death of the retiree and/or a beneficiary. The lump-sum distribution option may be elected only once by a member upon initial retirement, and may not be elected by a retiree, by members applying for a disability retirement annuity, or by survivors.



(2) No change in the option selected shall be permitted after the member's death or after the member has received his or her first retirement check except as provided in subsections (3) and (4) of this section and in Section 25-11-127. Members who are pursuing a disability retirement allowance and simultaneously or later elect to begin to receive a service retirement allowance while continuing to pursue a disability retirement allowance, shall not be eligible to select Option 6 and that option may not be selected at a later time if the application for a disability retirement allowance is voided or denied. However, any retired member who is receiving a retirement allowance under Option 2 or Option 4-A upon July 1, 1992, and whose designated beneficiary predeceased him or her or whose marriage to a spouse who is his or her designated beneficiary is terminated by divorce or other dissolution, upon written notification to the retirement system of the death of the designated beneficiary or of the termination of the retired member's marriage to the designated beneficiary, the retirement allowance payable to the member after receipt of that notification by the retirement system shall be equal to the retirement allowance that would have been payable if the member had not elected the option. In addition, any retired member who is receiving the maximum retirement allowance for life, a retirement allowance under Option 1 or who is receiving a retirement allowance under Option 2 or Option 4-A on July 1, 1992, may elect to provide survivor benefits under Option 2 or Option 4-A to a spouse who was not previously the member's beneficiary and whom the member married before July 1, 1992.

(3) Any retired member who is receiving a reduced retirement allowance under Option 2 or Option 4-A whose designated beneficiary predeceases him or her, or whose marriage to a spouse who is his or her designated beneficiary is terminated by divorce or other dissolution, may elect to cancel the reduced retirement allowance and receive the maximum retirement allowance for life in

an amount equal to the amount that would have been payable if the member had not elected Option 2 or Option 4-A. That election must be made in writing to the office of the executive director of the system on a form prescribed by the board. Any such election shall be effective the first of the month following the date the election is received by the system; however, the election may be applied retroactively for not more than three (3) months but no earlier than the first of the month following the date of the death of the beneficiary.

(4) Any retired member who is receiving the maximum retirement allowance for life, or a retirement allowance under Option 1, and who marries after his or her retirement may elect to cancel the maximum retirement allowance and receive a reduced retirement allowance under Option 2 or Option 4-A to provide continuing lifetime benefits to his or her spouse. That election must be made in writing to the office of the executive director of the system on a form prescribed by the board not earlier than the date of the marriage. Any such election shall be effective the first of the month following the date the election is received by the system.

(5) If the election of an optional benefit is made after the member has attained the age of sixty-five (65) years, the actuarial equivalent factor shall be used to compute the reduced retirement allowance as if the election had been made on his or her sixty-fifth birthday; however, from and after January 1, 2003, if there is an election of Option 6 after the member has attained the age of sixty-five (65) years, the actuarial equivalent factor based on the retiree's age at the time of retirement shall be used to compute the reduced maximum monthly retirement allowance. However, if a retiree marries or remarries after retirement and elects either Option 2 or Option 4-A as provided in subsection (2) or (4) of this section, the actuarial equivalent factor used to compute the reduced retirement allowance shall be the factor for



the age of the retiree and his or her beneficiary at the time such election for recalculation of benefits is made.

(6) Notwithstanding any provision of Section 25-11-1 et seq., no payments may be made for a retirement allowance on a monthly basis for a period of time in excess of that allowed by federal law.

(7) If a retirant and his or her eligible beneficiary, if any, both die before they have received in annuity payments a total amount equal to the accumulated contributions standing to the retirant's credit in the annuity savings account at the time of his or her retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such persons as the retirant has nominated by written designation duly executed and filed in the office of the executive director. If no designated person survives the retirant and his or her beneficiary, the difference, if any, shall be paid under Section 25-11-117.1(1).

(8) Any retired member who retired on Option 2(5) or 4-A(5) before July 1, 1992, who is still receiving a retirement allowance on July 1, 1994, shall receive an increase in the annual retirement allowance effective July 1, 1994, equal to the amount they would have received under Option 2 or Option 4-A without a reduction for Option 5 based on the ages at retirement of the retiree and beneficiary and option factors in effect on July 1, 1992. That increase shall be prospective only.

**SECTION 4.** Section 25-11-120, Mississippi Code of 1972, is amended as follows:

25-11-120. (1) Any individual aggrieved by an administrative determination, including a determination of the medical board, relating to the eligibility for or payment of benefits, or the calculation of creditable service or other similar matters relating to the Public Employees' Retirement System or any other retirement system or program administered by

the board, may request a hearing before a hearing officer designated by the board. Such hearings shall be conducted in accordance with rules and regulations adopted by the board and formal rules of evidence shall not apply. The hearing officer is authorized to administer oaths, hear testimony of witnesses and receive documentary and other evidence. In case of disability appeals, the hearing officer shall have the authority to defer a decision in order to request a medical evaluation or test or additional existing medical records not previously furnished by the claimant. After the hearing and the receipt of any additional medical evidence requested by the hearing officer, the hearing officer shall certify the record to the board, which shall include the hearing officer's proposed statement of facts, conclusions of law and recommendation. The record may include a taped recording of the proceedings of the hearing in lieu of a transcribed copy of the proceedings. The board shall receive the record and make its determination based solely on matters contained therein.

(2) Any individual aggrieved by the determination of the board may appeal to the Circuit Court of the First Judicial District of Hinds County, Mississippi, in accordance with the Uniform Circuit Court Rules governing appeals to the circuit court in civil cases. Such appeal shall be made solely on the record before the board and this procedure shall be the exclusive method of appealing determinations of the board.

(3) The board is authorized to appoint a committee of the board to serve as hearing officer or to employ or contract with qualified personnel to perform the duties of hearing officer and court reporter as may be necessary for conducting, recording and transcribing such hearings. The board may assess and collect fees to offset costs related to such hearings. Those fees shall be deposited to the credit of the Public Employees' Retirement System.



(4) Interest shall not be paid on any benefits, including, but not limited to, benefits that are delayed as a result of an administrative determination or an appeal from an administrative determination.

**SECTION 5.** Section 25-11-121, Mississippi Code of 1972, is amended as follows:

25-11-121. (1) The board shall, from time to time, determine the current requirements for benefit payments and administrative expense which shall be maintained as a cash working balance, except that such cash working balance shall not exceed at any time an amount necessary to meet the current obligations of the system for a period of ninety (90) days. Any amounts in excess of such cash working balance shall be invested, as follows, at such periodic intervals as the board may determine; however, all purchases shall be made from competitive offerings except short-term obligations referred to in Section 25-11-121(d):

(a) Bonds, notes, certificates and other valid general obligations of the State of Mississippi, or of any county, or of any city, or of any supervisors district of any county of the State of Mississippi, or of any school district bonds of the State of Mississippi; notes or certificates of indebtedness issued by the Veterans' Home Purchase Board of Mississippi, provided such notes or certificates of indebtedness are secured by the pledge of collateral equal to two hundred percent (200%) of the amount of the loan, which collateral is also guaranteed at least for fifty percent (50%) of the face value by the United States government, and provided that not more than five percent (5%) of the total investment holdings of the system shall be in Veterans' Home Purchase Board notes or certificates at any time; real estate mortgage loans one hundred percent (100%) insured by the Federal Housing Administration on single family homes located in the State of Mississippi, where monthly collections and all servicing matters are handled by Federal Housing Administration approved

mortgagees authorized to make such loans in the State of Mississippi;

(b) State of Mississippi highway bonds;

(c) Funds may be deposited in any institution insured by the Federal Deposit Insurance Corporation that maintains a facility that takes deposits in the State of Mississippi or a custodial bank;

(d) Corporate bonds and taxable municipal bonds rated by a United States Securities and Exchange Commission designated Nationally Recognized Statistical Rating Organization; or corporate short-term obligations of corporations or of wholly owned subsidiaries of corporations, whose short-term obligations are rated A-2 or better by Standard and Poor's, rated P-2 or better by Moody's Investment Service, F-2 or better by Fitch Ratings, Ltd., or the equivalent of these ratings if assigned by another United States Securities and Exchange Commission designated Nationally Recognized Statistical Rating Organization;

(e) Bonds of the Tennessee Valley Authority;

(f) Bonds, notes, certificates and other valid obligations of the United States, and other valid obligations of any federal instrumentality that issues securities under authority of an act of Congress and are exempt from registration with the Securities and Exchange Commission;

(g) Bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States;

(h) Interest-bearing bonds or notes which are general obligations of any other state in the United States or of any city or county therein, provided such city or county had a population as shown by the federal census next preceding such investment of not less than twenty-five thousand (25,000) inhabitants and provided that such state, city or county has not defaulted for a period longer than thirty (30) days in the payment of principal or



interest on any of its general obligation indebtedness during a period of ten (10) calendar years immediately preceding such investment;

(i) Bonds of established non-United States companies and foreign government securities rated by a recognized rating agency. The board may take requisite action to effectuate or hedge transactions through foreign banks, including the purchase and sale, transfer, exchange, or otherwise disposal of, and generally deal in foreign exchange through the use of foreign currency, interbank forward contracts, futures contracts, options contracts, swaps and other related derivative instruments, notwithstanding any other provisions of this article to the contrary;

(j) Shares of stocks, common and/or preferred, of corporations created by or existing under the laws of the United States or any state, district or territory thereof and shares of stocks and convertible securities of non-United States companies; provided:

(i) The maximum investments in stocks shall not exceed eighty percent (80%) of the total book value of the total investment fund of the system;

(ii) The stock of such corporation shall:

1. Be listed on a national stock exchange; or
2. Be traded in the over-the-counter market,

provided price quotations for such over-the-counter stocks are quoted by the National Association of Securities Dealers Automated Quotation System (NASDAQ);

(iii) The outstanding shares of such corporation shall have a total market value of not less than Fifty Million Dollars (\$50,000,000.00);

(iv) The amount of investment in any one (1) corporation shall not exceed three percent (3%) of the book value of the assets of the system;

(v) The shares of any one (1) corporation owned by the system shall not exceed five percent (5%) of that corporation's outstanding stock;

The board may take requisite action to effectuate or hedge transactions for shares of stocks and convertible securities of non-United States companies through foreign banks, including the purchase and sale, transfer, exchange, or otherwise disposal of, and generally deal in foreign exchange through the use of foreign currency, interbank forward contracts, futures contracts, options contracts, swaps and other related derivative instruments, notwithstanding any other provisions of this article to the contrary;

(k) Covered call and put options on securities traded on one or more of the regulated exchanges;

(l) Pooled or commingled funds managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of trustees, and shares of investment companies and unit investment trusts registered under the Investment Company Act of 1940, where such pooled or commingled funds or shares are comprised of common or preferred stocks, bonds, money market instruments or other investments authorized under this section. Such investment in commingled funds or shares shall be held in trust; provided that the total book value of investments under this paragraph shall at no time exceed five percent (5%) of the total book value of all investments of the system. Any investment manager approved by the board of trustees shall invest such commingled funds or shares as a fiduciary;

(m) Pooled or commingled real estate funds or real estate securities managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of trustees. Such investment in commingled funds or shares shall be held in



trust; provided that the total book value of investments under this paragraph shall at no time exceed ten percent (10%) of the total book value of all investments of the system. Any investment manager approved by the board of trustees shall invest such commingled funds or shares as a fiduciary. The ten percent (10%) limitation in this subsection shall not be subject to the five percent (5%) limitation in paragraph (1) of this subsection;

(n) Types of investments not specifically authorized by this subsection if the investments are in the form of a separate account managed by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board; or a limited partnership or commingled fund approved by the board; provided that the total book value of investments under this paragraph shall at no time exceed ten percent (10%) of the total book value of all investments of the system.

(2) All investments shall be acquired by the board at prices not exceeding the prevailing market values for such securities.

(3) Any limitations herein set forth shall be applicable only at the time of purchase and shall not require the liquidation of any investment at any time. All investments shall be clearly marked to indicate ownership by the system and to the extent possible shall be registered in the name of the system.

(4) Subject to the above terms, conditions, limitations and restrictions, the board shall have power to sell, assign, transfer and dispose of any of the securities and investments of the system, provided that said sale, assignment or transfer has the majority approval of the entire board. The board may employ or contract with investment managers, evaluation services or other such services as determined by the board to be necessary for the effective and efficient operation of the system.

(5) Except as otherwise provided herein, no trustee and no employee of the board shall have any direct or indirect interest in the income, gains or profits of any investment made by the

board, nor shall any such person receive any pay or emolument for his services in connection with any investment made by the board. No trustee or employee of the board shall become an endorser or surety, or in any manner an obligor for money loaned by or borrowed from the system.

(6) All interest derived from investments and any gains from the sale or exchange of investments shall be credited by the board to the account of the system.

(7) The board of trustees annually shall credit regular interest on the mean amount for the preceding year in each of the reserves maintained by the board, with the exception of the expense account. This credit shall be made annually from interest and other earnings on the invested assets of the system. Any additional amount required to meet the regular interest on the funds of the system shall be charged to the employer's accumulation account, and any excess of earnings over such regular interest required shall be credited to the employer's accumulation account. Regular interest shall mean such per centum rate to be compounded annually as shall be determined by the board of trustees \* \* \*.

(8) The board of trustees shall be the custodian of the funds of the system. All expense vouchers and retirement allowance payrolls shall be certified by the executive secretary who shall furnish the board a surety bond in a company authorized to do business in Mississippi in such an amount as shall be required by the board, the premium to be paid by the board from the expense account.

(9) For the purpose of meeting disbursements for retirement allowances, annuities and other payments, cash may be kept available, not exceeding the requirements of the system for a period of ninety (90) days, on deposit in one or more banks or trust companies organized under the laws of the State of Mississippi or the laws of the United States, provided that the



sum on deposit in any one (1) bank or trust company shall not exceed thirty-five percent (35%) of the paid-up capital and regular surplus of such bank or trust company.

(10) Except as otherwise provided, the monies or properties of the Public Employees' Retirement System of Mississippi deposited in any bank or banks of the United States shall, where possible, be safeguarded and guaranteed by the posting as security by the depository of bonds, notes and other securities purchasable by the system, as provided elsewhere in this section. The bonds, notes and other securities offered as security shall be posted to the credit of the system by the depository with the board or with an unaffiliated bank or trust company domiciled within the United States or the State of Mississippi acceptable to both the board and to the fiscal agent bank. In the event the board and the fiscal agent bank cannot reach an agreement, the bonds, notes and other securities shall be deposited in a bank or trust company designated by the State Commissioner of Banking and Consumer Finance. Provided, however, that bonds or notes of the United States government owned by the system may be deposited for safekeeping in any federal reserve bank.

(11) The board of trustees shall determine the degree of collateralization necessary for both foreign and domestic demand deposit accounts in addition to that which is guaranteed by the Federal Deposit Insurance Corporation or such other federal insurance program as may be in effect.

(12) The board, the executive secretary and employees shall discharge their duties with respect to the investments of the system solely for the interest of the system with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, including diversifying the investments of the system so as to minimize the risk of large

losses, unless under the circumstances it is clearly prudent not to do so.

(13) Documentary material or data made or received by the system which consists of trade secrets or commercial or financial information that relates to the investments of the system shall be exempt from the Mississippi Public Records Act of 1983 if the disclosure of the material or data is likely to impair the system's ability to obtain such information in the future, or is likely to cause substantial harm to the competitive position of the person or entity from whom the information was obtained.

**SECTION 6.** Section 25-11-127, Mississippi Code of 1972, is amended as follows:

25-11-127. (1) (a) No person who is being paid a retirement allowance or a pension after retirement under this article shall be employed or paid for any service by the State of Mississippi, except as provided in this section.

(b) No retiree of this retirement system who is reemployed or is reelected to office after retirement shall continue to draw retirement benefits while so reemployed, except as provided in this section.

(c) No person employed or elected under the exceptions provided for in this section shall become a member under Article 3 of the retirement system.

(2) Any person who has been retired under the provisions of Article 3 and who is later reemployed in service covered by this article shall cease to receive benefits under this article and shall again become a contributing member of the retirement system. When the person retires again, if the reemployment exceeds six (6) months, the person shall have his or her benefit recomputed, including service after again becoming a member, provided that the total retirement allowance paid to the retired member in his or her previous retirement shall be deducted from the member's



retirement reserve and taken into consideration in recalculating the retirement allowance under a new option selected.

(3) The board shall have the right to prescribe rules and regulations for carrying out the provisions of this section.

(4) The provisions of this section shall not be construed to prohibit any retiree, regardless of age, from being employed and drawing a retirement allowance either:

(a) For a period of time not to exceed one-half (1/2) of the normal working days for the position in any fiscal year during which the retiree will receive no more than one-half (1/2) of the salary in effect for the position at the time of employment, or

(b) For a period of time in any fiscal year sufficient in length to permit a retiree to earn not in excess of twenty-five percent (25%) of retiree's average compensation.

To determine the normal working days for a position under paragraph (a) of this subsection, the employer shall determine the required number of working days for the position on a full-time basis and the equivalent number of hours representing the full-time position. The retiree then may work up to one-half (1/2) of the required number of working days or up to one-half (1/2) of the equivalent number of hours and receive up to one-half (1/2) of the salary for the position. In the case of employment with multiple employers, the limitation shall equal one-half (1/2) of the number of days or hours for a single full-time position.

Notice shall be given in writing to the executive director, setting forth the facts upon which the employment is being made, and the notice shall be given within five (5) days from the date of employment and also from the date of termination of the employment.

(5) (a) A member may retire and continue in municipal or county elected office provided the member has reached the age and/or service requirement which will not result in a prohibited

in-service distribution as defined by the Internal Revenue Service or a retiree may be elected to a municipal or county office, provided that the person:

(i) Files annually, in writing, in the office of the employer and the office of the executive director of the system before the person takes office or as soon as possible after retirement, a waiver of all salary or compensation and elects to receive in lieu of that salary or compensation a retirement allowance as provided in this section, in which event no salary or compensation shall thereafter be due or payable for those services; however, any such officer or employee may receive, in addition to the retirement allowance, office expense allowance, mileage or travel expense authorized by any statute of the State of Mississippi; or

(ii) Elects to receive compensation for that elective office in an amount not to exceed twenty-five percent (25%) of the retiree's average compensation. \* \* \* In order to receive compensation as allowed in this subparagraph, the retiree shall file annually, in writing, in the office of the employer and the office of the executive director of the system, an election to receive, in addition to a retirement allowance, compensation as allowed in this subparagraph.

(b) The municipality or county in which the retired person holds elective office shall pay to the board the amount of the employer's contributions on the full amount of the regular compensation for the elective office that the retired person holds.

(c) As used in this subsection, the term "compensation" shall not include office expense allowance, mileage or travel expense authorized by a statute of the State of Mississippi.

**SECTION 7.** Section 25-11-309, Mississippi Code of 1972, is amended as follows:



25-11-309. (1) The retirement allowance from the Supplemental Legislative Retirement Plan shall consist of fifty percent (50%) of an amount equal to the retirement allowance determined by creditable service as an elected Senator or Representative of the State Legislature or as President of the Senate payable by the Public Employees' Retirement System in accordance with Section 25-11-101 et seq.

(2) The percentage of the retirement allowance as provided in this section shall be transferred from the annuity savings account of the member and the employer accumulation account in the Supplemental Legislative Retirement Plan to the retirement account of the member in the Public Employees' Retirement System as provided.

(3) (a) Notwithstanding any provisions of this section or this title to the contrary, the maximum annual retirement allowance attributable to the employer contributions payable under the Supplemental Legislative Retirement Plan to a member shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code and any regulations issued thereunder applicable to governmental plans as the term is defined under Section 414(d) of the Internal Revenue Code.

(b) The board is authorized to provide by rule or regulation for the payment of benefits as provided under this chapter to members or beneficiaries of the Supplemental Legislative Retirement System at a time and under circumstances not otherwise provided for in this chapter to the extent that the payment is required to maintain the Supplemental Legislative Retirement System as a qualified retirement plan for purposes of federal income tax laws.

(4) (a) A retiree or beneficiary may, on a form prescribed by and filed with the Executive Director of the Public Employees' Retirement System, irrevocably waive all or a portion of any benefits from the plan to which the retiree or beneficiary is

entitled under this article. The waiver shall be binding on the heirs and assigns of any retiree or beneficiary and the same must agree to forever hold harmless the plan and the Public Employees' Retirement System from any claim to the waived retirement benefits.

(b) Any waiver under this subsection shall apply only to the person executing the waiver. A beneficiary shall be entitled to benefits according to the option selected by the member at the time of retirement; however, a beneficiary may execute a waiver of benefits under this subsection.

(c) The plan shall retain all amounts that are not used to pay benefits because of a waiver executed under this subsection.

(d) The board of trustees of the Public Employees' Retirement System may provide rules and regulations for the administration of waivers under the subsection.

**SECTION 8.** Section 25-13-3, Mississippi Code of 1972, is amended as follows:

25-13-3. As used in this chapter, unless the context clearly indicates otherwise, the term "Highway Patrol or Highway Safety Patrol" for the purpose of establishing membership in this system for persons presently employed by the Highway Safety Patrol shall mean and include all the officers of the Mississippi Highway Safety Patrol who have completed a course of instruction in an authorized highway patrol training school on general law enforcement, and who have served for a period of at least five (5) years prior to the passage of this chapter as a uniformed officer of the Highway Safety Patrol in the enforcement of the traffic laws of the State of Mississippi, or in the driver's license division, or who are now engaged in such service. New members shall include all the officers of the Mississippi Highway Safety Patrol who have completed a course of instruction in an authorized highway patrol training school on general law enforcement, and who



serve as sworn officers of the Highway Patrol in the enforcement of the laws of the State of Mississippi.

Any former sworn officer of the Highway Safety Patrol who returns to service with the Highway Safety Patrol in any capacity, and who has had not less than two (2) years of prior service as a sworn officer of the Highway Safety Patrol, and who was disabled by wounds or accident in line of duty, may become a member of the Highway Safety Patrol Retirement System even though his present duties would not otherwise qualify him for \* \* \* membership, and he may continue \* \* \* membership so long as he remains in the employ of the Highway Safety Patrol.

Membership in the Highway Safety Patrol Retirement System shall be retroactive to the date of such patrolman's return to employment with the Highway Safety Patrol, and any funds contributed by him, previous to the passage of this chapter, to the Public Employees' Retirement System shall be transferred to his credit in the Highway Safety Patrol Retirement System, and the employer's contributions made to the Public Employees' Retirement System for the patrolman shall also be transferred to the employer's credit in the Highway Safety Patrol Retirement System; and the difference between the contributions for both the employer and the employee made to the Public Employees' Retirement System, and those which should have been made to the Highway Safety Patrol Retirement System by both employer and employee for the patrolman since the date of his return to the Highway Safety Patrol shall be paid into the Highway Safety Patrol Retirement System.

In order to be eligible for service retirement benefits under this retirement system any member must have served at least five (5) years as a sworn officer of the Highway Patrol engaged in the enforcement of the laws of the State of Mississippi, or at least five (5) years as a sworn agent of the Mississippi Bureau of Narcotics, or a combination of at least five (5) years as a sworn agent of the Mississippi Bureau of Narcotics and as a sworn

officer of the Highway Patrol. If the officer is transferred from duty making him eligible for membership in this retirement system to other duties for which credit is not allowed by this system, and he has not been credited with a minimum of five (5) years in this system as a sworn officer of the Highway Patrol engaged in the enforcement of the laws of this state, then an \* \* \* amount \* \* \* as determined by the Public Employees' Retirement System shall be transferred from this system to his account in the Public Employees' Retirement System of Mississippi to make him a member of that system with full credit for his years of service with the Mississippi Highway Safety Patrol, and he shall become a member of the Public Employees' Retirement System of Mississippi with prior service credits. The amount that is determined to be necessary to be transferred shall be paid first from the member's total contributions in the Highway Safety Patrol System, plus interest, so that all of those funds are transferred, and any remainder shall be paid from the employer's accumulation account.

**SECTION 9.** Section 25-13-11, Mississippi Code of 1972, is amended as follows:

25-13-11. (1) Any member upon withdrawal from service, upon or after attainment of the age of fifty-five (55) years, who shall have completed at least five (5) years of creditable service, or any member upon withdrawal from service upon or after attainment of the age of forty-five (45) years, who shall have completed at least twenty (20) years of creditable service, or any member upon withdrawal from service, regardless of age, who shall have completed at least twenty-five (25) years of creditable service, shall be entitled to receive a retirement allowance which shall be payable the first of the month following receipt of the member's application in the Office of the Executive Director of the Public Employees' Retirement System, but in no event before withdrawal from service.



Any member whose withdrawal from service occurs prior to attaining the age of fifty-five (55) years, who shall have completed more than five (5) years of creditable service and shall not have received a refund of the member's accumulated contributions, shall be entitled to receive a retirement allowance beginning upon his attaining the age of fifty-five (55) years of the amount earned and accrued at the date of withdrawal from service.

The annual amount of the retirement allowance shall consist of:

(a) A member's annuity, which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement, computed according to the actuarial table in use by the system.

(b) An employer's annuity which, together with the member's annuity provided above, shall be equal to two and one-half percent (2-1/2%) of the average compensation, based on the four (4) highest consecutive years, for each year of membership service.

(c) A prior service annuity equal to two and one-half percent (2-1/2%) of the average compensation, based on the four (4) highest consecutive years, for each year of prior service for which the member is allowed credit.

(d) In the case of retirement of any member prior to attaining the age of fifty-five (55) years, the retirement allowance shall be computed in accordance with the formula hereinabove set forth in this section, except that the employer's annuity and prior service annuity above described shall be reduced three percent (3%) for each year of age below fifty-five (55) years, or three percent (3%) for each year of service below twenty-five (25) years of creditable service, whichever is lesser.

(e) Upon retiring from service, a member shall be eligible to obtain retirement benefits, as computed above, for

life, except that the aggregate amount of the employer's annuity and prior service annuity above described shall not exceed more than one hundred percent (100%) of the average compensation regardless of the years of service.

(f) Any member in the service who shall have attained the age of sixty (60) years shall be retired forthwith. However, any member who has attained age sixty (60) may ask the Commissioner of Public Safety to allow him to continue in service with the Mississippi Highway Safety Patrol beyond age sixty (60). If the commissioner determines that the member's continuance in service would be advantageous to the Highway Safety Patrol because of his expert knowledge, experience or qualifications, the member shall be allowed to continue in service beyond age sixty (60) for a period of one (1) year. After the initial one-year continuance, the commissioner may authorize the member to continue in service for additional periods of one (1) year until the member attains age sixty-five (65), at which time retirement shall be mandatory.

(g) Notwithstanding any provision of this chapter pertaining to the Mississippi Highway Safety Patrol Retirement System, no payments may be made for a retirement allowance on a monthly basis for a period of time in excess of that allowed by any applicable federal law.

(h) In no case shall any retired member who has completed at least fifteen (15) years of creditable service receive less than Five Hundred Dollars (\$500.00) per month; in no case shall any retired member who has completed ten (10) or more years of creditable service, but less than fifteen (15) years of creditable service, receive less than Three Hundred Dollars (\$300.00) per month; and in no case shall any retired member who has completed less than ten (10) years of creditable service receive less than Two Hundred Fifty Dollars (\$250.00) per month. In no case shall a beneficiary who is receiving a retirement



allowance receive less than Two Hundred Fifty Dollars (\$250.00) per month or Three Thousand Dollars (\$3,000.00) per year.

(i) Any retired member who is receiving a retirement allowance on July 1, 1999, shall receive an ad hoc increase in the annual retirement allowance equal to Three Dollars and Fifty Cents (\$3.50) per month for each full fiscal year through June 30, 1999, that the member has actually drawn retirement payments from the date of retirement, or the date of last retirement if there is more than one (1) retirement date, plus an amount equal to One Dollar (\$1.00) per month for each full year of creditable service and proportionately for each quarter year of creditable service, as documented by the system and on which benefits are being paid. If there are multiple beneficiaries receiving a retirement allowance from a deceased member's account, the ad hoc increase shall be divided proportionately.

(2) (a) A retiree or beneficiary may, on a form prescribed by and filed with the Executive Director of the Public Employees' Retirement System, irrevocably waive all or a portion of any benefits from the plan to which the retiree or beneficiary is entitled. The waiver shall be binding on the heirs and assigns of any retiree or beneficiary and the same must agree to forever hold harmless the Highway Safety Patrol Retirement System and the Public Employees' Retirement System from any claim to the waived retirement benefits.

(b) Any waiver under this subsection shall apply only to the person executing the waiver. A beneficiary shall be entitled to benefits according to the option selected by the member at the time of retirement; however, a beneficiary may execute a waiver of benefits under this subsection.

(c) The Highway Safety Patrol Retirement System shall retain all amounts that are not used to pay benefits because of a waiver executed under this subsection.

(d) The Board of Trustees of the Public Employees' Retirement System may provide rules and regulations for the administration of waivers under this subsection.

**SECTION 10.** Section 25-13-16, Mississippi Code of 1972, is amended as follows:

25-13-16. (1) Upon application for superannuation or disability retirement, any member who retires after July 1, 1990, may elect to receive his benefit pursuant to the provisions of Sections 25-13-11 and 25-13-13. Or he may elect upon retirement, or upon becoming eligible for retirement, to receive the actuarial equivalent, subject to the provisions of subsection (3) of this section, of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

**Option 1.** If he dies before he has received in annuity payment the value of the member's annuity savings account as it was at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the board; or

**Option 2.** Upon his death, his reduced retirement allowance shall be continued throughout the life of, and paid to, such person as he has nominated by written designation duly acknowledged and filed with the board of trustees at the time of his retirement;

**Option 3.** Upon his death, one-half (1/2) of his reduced retirement allowance shall be continued throughout the life of, and paid to, such person as he shall have nominated by written designation duly acknowledged and filed with the board of trustees at the time of his retirement, and the other one-half (1/2) of his reduced retirement allowance to some other designated beneficiary;

**Option 4-A.** Upon his death, one-half (1/2) of his reduced retirement allowance, or such other specified amount, shall be continued throughout the life of, and paid to, such person as he



shall have nominated by written designation duly acknowledged and filed with the board of trustees at the time of his retirement; or

**Option 4-B.** A reduced retirement allowance shall be continued throughout the life of the retirant, but with the further guarantee of payments to the named beneficiary or beneficiaries \* \* \* for a specified number of years certain. If the retired member or the last designated beneficiary \* \* \* both die prior to receiving all guaranteed payments due, the actuarial equivalent of the remaining payments shall be paid pursuant to Section 25-13-21.1(1).

**Option 4-C.** Such retirement allowance otherwise payable may be converted into a retirement allowance of equivalent actuarial value in such an amount that, with the member's benefit under Title II of the federal Social Security Act, the member will receive, so far as possible, approximately the same amount annually before and after the earliest age at which the member becomes eligible to receive a social security benefit. This option shall not be available to retirees whose retirement is effective on or after July 1, 2004.

**Option 6.** Any member who is eligible to retire with an unreduced benefit may select the maximum retirement benefit or an optional benefit as provided in this subsection together with a partial lump-sum distribution. The amount of the lump-sum distribution under this option shall be equal to the maximum monthly benefit multiplied by twelve (12), twenty-four (24) or thirty-six (36) as selected by the member. The maximum retirement benefit shall be actuarially reduced to reflect the amount of the lump-sum distribution selected and further reduced for any other optional benefit selected. The annuity and lump-sum distribution shall be computed to result in no actuarial loss to the system. The lump-sum distribution shall be made as a single payment payable at the time the first monthly annuity payment is paid to the retiree. The amount of the lump-sum distribution shall be

deducted from the member's annuity savings account in computing what contributions remain at the death of the retiree and/or a beneficiary. The lump-sum distribution option may be elected only once by a member upon initial retirement, and may not be elected by a retiree, by members applying for a disability retirement annuity, by survivors or by a member selecting Option 4-C.

(2) No change in the option selected shall be permitted after the member's death or after the member has received his first retirement check, except as provided in subsections (3) and (4) of this section. However, any retired member who is receiving a retirement allowance under Option 2 or Option 4-A upon July 1, 1999, and whose designated beneficiary predeceased him or whose marriage to a spouse who is his designated beneficiary is terminated by divorce or other dissolution, upon written notification to the retirement system of the death of the designated beneficiary or of the termination of his marriage to his designated beneficiary, the retirement allowance payable to the member after receipt of such notification by the retirement system shall be equal to the retirement allowance that would have been payable if the member had not elected the option. In addition, any retired member who is receiving the maximum retirement allowance for life, a retirement allowance under Option 1 or who is receiving a retirement allowance under Option 2 or Option 4-A on July 1, 1999, may elect to provide survivor benefits under Option 2 or Option 4-A to a spouse who was not previously the member's beneficiary and who the member married before July 1, 1999. Should a member retired on disability be returned to active service, the option previously selected shall be null and void. Upon subsequent retirement a new option may be selected.

(3) Any retired member who is receiving a reduced retirement allowance under Option 2 or Option 4-A whose designated beneficiary predeceases him, or whose marriage to a spouse who is his designated beneficiary is terminated by divorce or other



dissolution, may elect to cancel his reduced retirement allowance and receive the maximum retirement allowance for life in an amount equal to the amount that would have been payable if the member had not elected Option 2 or Option 4-A. Such election must be made in writing to the office of the executive director of the system on a form prescribed by the board. Any such election shall be effective the first of the month following the date the election is received by the system; however, the election may be applied retroactively for not more than three (3) months but no earlier than the first of the month following the date of the death of the beneficiary.

(4) Any retired member who is receiving the maximum retirement allowance for life, or a retirement allowance under Option 1, and who marries after his retirement may elect to cancel his maximum retirement allowance and receive a reduced retirement allowance under Option 2 or Option 4-A to provide continuing lifetime benefits to his spouse. Such election must be made in writing to the office of the executive director of the system on a form prescribed by the board not earlier than the date of the marriage. Any such election shall be effective the first of the month following the date the election is received by the system. However, if a retiree marries or remarries after retirement and elects either Option 2 or Option 4-A as provided in subsection (2) or (4) of this section, the actuarial equivalent factor used to compute the reduced retirement allowance shall be the factor for the age of the retiree and his or her beneficiary at the time such election for recalculation of benefits is made.

(5) Any member in service who has qualified for retirement benefits may select any optional method of settlement of retirement benefits by notifying the Executive Director of the Board of Trustees of the Public Employees' Retirement System in writing, on a form prescribed by the board, of the option he has selected and by naming the beneficiary of such option and

furnishing necessary proof of age. Such option, once selected, may be changed at any time prior to actual retirement or death, but upon the death or retirement of the member, the optional settlement shall be placed in effect upon proper notification to the executive director.

(6) Notwithstanding any provision of Section 25-13-1 et seq., no payments may be made for a retirement allowance on a monthly basis for a period of time in excess of that allowed by federal law.

(7) If a retirant and his eligible beneficiary, if any, both die before they have received in annuity payments a total amount equal to the accumulated contributions standing to the retirant's credit in the annuity savings account at the time of his retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such persons as the retirant has nominated by written designation duly executed and filed in the office of the executive director. If no designated person survives the retirant and his beneficiary, the difference, if any, shall be paid pursuant to Section 25-13-21.1(1).

(8) Any retired member who retired on Option 2(5) or 4-A(5) before July 1, 1999, who is still receiving a retirement allowance as of July 1, 1999, shall receive an increase in the annual retirement allowance effective July 1, 1999, equal to the amount they would have received under Option 2 or Option 4-A without a reduction for Option 5 based on the ages at retirement of the retiree and beneficiary and option factors in effect on July 1, 1999. Such increase shall be prospective only.

(9) For purposes of this section:

(a) "Beneficiary" means any person designated to receive a retirement allowance, an annuity or other benefit as provided by this chapter. Such designation shall be in writing filed in the Office of the Executive Director of the Board of



Trustees of the Public Employees' Retirement System, and no designation or change of beneficiary shall be made in any other manner; however, notwithstanding any provision of this chapter to the contrary, the lawful spouse of a member at the time of the death of a member shall be the beneficiary of such member unless the member has designated another beneficiary subsequent to the date of marriage.

(b) "Actuarial equivalent" shall mean a benefit of equal value to the accumulated contributions, annuity or benefit, as the case may be, when computed upon the basis of such mortality tables as shall be adopted by the board of trustees, and regular interest.

(c) "Actuarial tables" shall mean such tables of mortality and rates of interest as shall be adopted by the board in accordance with the recommendation of the actuary.

**SECTION 11.** Section 25-13-28, Mississippi Code of 1972, is amended as follows:

25-13-28. Regular interest shall be credited annually to the mean amount of the employee reserve account for the preceding year. This credit shall be made annually from interest and other earnings on the invested assets of this system. Any additional amount required to meet the regular interest on the funds of this system shall be charged to the employer's accumulation account, and any excess of earnings over such regular interest required shall be credited to the employer's accumulation account. Regular interest shall mean the percentage rate of interest compounded annually as determined by the Board of Trustees of the Public Employees' Retirement System \* \* \*.

Once \* \* \* interest is credited it shall be added to the sum of all amounts deducted from the compensation of a member and shall be included in determining his total contributions.

**SECTION 12.** Section 25-11-415, Mississippi Code of 1972, is amended as follows:

25-11-415. The Public Employees' Retirement System of Mississippi may deduct not more than two percent (2%) of all employers' contributions and transfer such deductions to the expense fund of the Public Employees' Retirement System to defray the cost of administering the optional retirement program created by this article.

**SECTION 13.** The following shall be codified as Section 21-29-331, Mississippi Code of 1972:

21-29-331. (1) Except as otherwise provided in subsection (2) of this section, where benefits are payable to a designated beneficiary or beneficiaries under Articles 1, 3 or 5 of this chapter and the designated beneficiary or beneficiaries as provided by the member on the most recent form filed with the system is deceased or otherwise disqualified at the time such benefits become payable, the following persons, in descending order of precedence, shall be eligible to receive such benefits:

- (a) The surviving spouse of the member or retiree;
- (b) The children of the member or retiree or their descendants, per stirpes;
- (c) The brothers and sisters of the member or retiree or their descendants, per stirpes;
- (d) The parents of the member or retiree;
- (e) The executor or administrator on behalf of the member or retiree's estate;
- (f) The persons entitled by law to distribution of the member or retiree's estate.

(2) Any monthly benefits payable to a beneficiary who dies prior to cashing his or her final check(s) and/or any additional benefits payable pursuant to a cost-of-living adjustment still payable at the death of a beneficiary receiving monthly benefits shall be paid as follows:

- (a) The surviving spouse of the beneficiary;



(b) The children of the beneficiary or their descendants, per stirpes;

(c) The brothers and sisters of the beneficiary or their descendants, per stirpes;

(d) The parents of the beneficiary;

(e) The executor or administrator on behalf of the beneficiary's estate;

(f) The persons entitled by law to distribution of the beneficiary's estate.

(3) In the event no claim is made by any individual listed in subsection (2) of this section, a distribution may be made pursuant to the provisions of subsection (1) of this section.

(4) Payment under the provisions of this section shall bar recovery by any other person of the benefits distributed. Payment of benefits made to one or more members of a class of individuals are made on behalf of all members of the class. Any members of the class coming forward after payment is made must look to those who received the payment.

**SECTION 14.** The following shall be codified as Section 21-29-333, Mississippi Code of 1972:

21-29-333. (1) A retiree or beneficiary may, on a form prescribed by and filed with the Executive Director of the Public Employees' Retirement System, irrevocably waive all or a portion of any benefits from the general municipal retirement system or a firemen's and policemen's disability and relief fund to which the retiree or beneficiary is entitled. The waiver shall be binding on the heirs and assigns of any retiree or beneficiary and the same must agree to forever hold harmless the fund and the Public Employees' Retirement System of Mississippi from any claim to the waived retirement benefits.

(2) Any waiver under this section shall apply only to the person executing the waiver. A beneficiary shall be entitled to benefits according to the option selected by the member at the

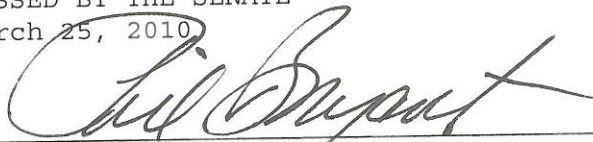
time of retirement. However, a beneficiary may, at the option of the beneficiary, execute a waiver of benefits under this subsection.

(3) The fund shall retain all amounts that are not used to pay benefits because of a waiver executed under this subsection.

(4) The Board of Trustees of the Public Employees' Retirement System may provide rules and regulations for the administration of waivers under this section.

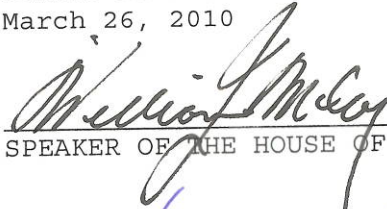
**SECTION 15.** This act shall take effect and be in force from and after July 1, 2010.

PASSED BY THE SENATE  
March 25, 2010



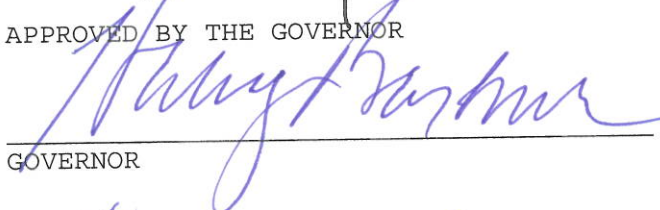
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 26, 2010



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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